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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,149	05/14/2001	Yoshinobu Sera	NEC 142135	1114

27667 7590 07/25/2006
HAYES, SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Defective Appeal Brief

As noted in the attached "Order Returning Undocketed Appeal To the Examiner" from the Board of Appeals, Appellant has provided a defective Appeal Brief. Specifically the appellant has not mapped the claimed features to the disclosure as required by 37 CFR 41.37©(1)(v) (see page 1 of Board of Appeals letter mailed 7/7/2006 attached). In order to avoid abandonment a substitute brief that is in compliance with 37 CFR § 41.37(c) is required. Further, please note that this is the third notice of defective appeal brief, if the next substitute brief is found to be defective, the error will be considered deliberate.

Since the above-mentioned Appeal Brief appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For more information on the Board's new rules see the web page entitled More Information on the Rules of Practice Before the BPAI, Final Rule at:
<http://www.usoto.aov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**.

The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal flourish extending to the right.

Mark Fadok

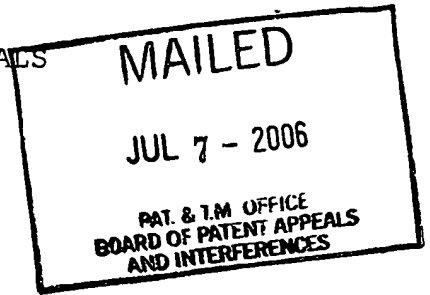
Primary Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOSHINOBU SERA

Application No. 09/855,149



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

January 11, 2006, appellant filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) **Summary of claimed subject matter.** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function

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must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of January 11, 2006 defective;
- 2) request applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief,
- 4) vacate the Examiner's Answer mailed February 28, 2006, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 5) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Deputy Chief Appeal Administrator
(571) 272-9797

Application No. 09/855,149

HAYES, SOLOWAY, P.C.
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON, AZ 85718

DMS/dal